(9)

(4)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.C.C. (REQUEST CASE) NO. 82 /2004

In the matter of an application under Section 11(6)(b) of the Arbitration and Conciliation Act, 1996, under Appointment of Arbitrator Scheme.

A N D

In the matter of:

M/s Prasad Construction and Co., Lila Mohan Niwas, Naisarai, Biharsharif (Nalanda) Bihar.

APPLICANT

VERSUS

1. The Chief Engineer, (Civil), South Eastern Coalfields Limited, Seepat Road, Bilaspur (Chhattisgarh)

2. The Staff Officer (Civil), South Eastern Coalfields Limited, Sohagpur Area, Dhanpuri, Shahdol.

RESPONDENTS

To

The Hon'ble Mr. Chief Justice of Chhattisgarh High Court and his companion Judges of the Court.

The humble application for appointment of Arbitrator:

(66)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.C.C. 82 **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

22.08.2005: -

Shri G.S. Agrawal, learned Sr. Advocate with Shri K.R. Nair, learned counsel for the applicant.

Shri P.S.Koshy, learned counsel for the respondents.

The application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') has come up before me on being designated for appointing an arbitrator, by the Hon'ble Chief Justice of Chhattisgarh High Court.

It is submitted by learned counsel for the applicant/petitioner that parties to the proceedings entered into a Contract Agreement dated 16.04.1996 for the work of construction of 250 nos. of MQs, 42 nos. B & 16 nos. C-type quarters for Bangwar Project of Sohagpur Area and the completion period for the said construction work was specified to be 24 months. As per Clause 9 of the Agreement all disputes or difference arising between the parties out of or relating to the constitution, meaning and operation of this contract or breach thereof are required to be settled by the sole arbitrator appointed by the CMD of South Eastern Coalfields Ltd. and the awards or arbitrator shall be final and binding on the parties concerned.

Learned counsel for the applicant/petitioner submits that the dispute arose out of the Agreement between the parties and the applicant after failing to receive any response from the executing authorities requested the Chief Engineer (Civil), S.E.C.L. to go for arbitration vide letter dated 15.03.2004 of Annexure P/14. However, when the above request of Annexure P/14 did not invoke any response from the Chief

(67)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.C.C. 92 **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Engineer (Civil), the applicant approached the Chairman-cum-Managing Director of the respondent with a request for nominating the sole arbitrator to resolve the disputes vide their registered letter dated 03.05.2004 of Annexure P/15. Learned counsel for the applicant further submits that since no arbitrator till date has been appointed by the Chairman-cum-Managing Director, S.E.C.L., the instant application under Section 11(6) of the Act has been filed as the respondent No. 1 has failed to exercise the power entrusted to him under the said Agreement in the matter of appointment of sole arbitrator.

Learned counsel for the respondents does not dispute the above submissions.

As a result, the application is allowed and a case for appointment of an arbitrator is held to be made out.

However, at the time of hearing it was submitted by the parties to the proceedings that they have no objection if any honourable retired Judge of this High Court is appointed as the sole arbitrator to adjudicate the disputes.

I hereby, therefore, appoint Mr. Justice A.S.V. Moorthy, former Chief Justice of High Court of Chhattisgarh, V-87, Vth Avenue, Annanagar, Chennai-600040, Ph.No. 26214465, as arbitrator, in exercise of power under Section 11(6) of the Arbitration and Conciliation Act, 1996.

The Hon'ble Arbitrator may settle his terms and conditions and remuneration.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.C.C. 82 **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित –3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Registry to intimate Hon'ble Mr. Justice A.S.V. Moorthy, former Chief Justice of High Court of Chhattisgarh, about his appointment as Arbitrator and to send all the papers along with address of the parties. Parties are also directed to approach Hon'ble Mr. Justice A.S.V. Moorthy, who is presently residing at Annanagar, Chennai and to submit papers and to take part in the arbitration proceedings. Sd/- DHIRENDRA MISHRA Judge	